



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



June 12, 2007

Bruce W. McClendon FAICP
Director of Planning

TO: Nicole Englund, Planning Deputy, First Supervisorial District
Anita Gutierrez, Planning Deputy, First Supervisorial District
Mike Bohlke, Assistant Chief Deputy, Second Supervisorial District
Ben Saltzman, Planning Deputy, Third Supervisorial District
Curt Pedersen, Chief of Staff, Fourth Supervisorial District
Paul Novak, Planning Deputy, Fifth Supervisorial District

FROM: Karen Simmons *KS*
Section Head, Ordinance Studies

SUBJECT: HEARING EXAMINER PROCEDURE

On April 3, 2007, the Board of Supervisors instructed the Department of Regional Planning to prepare an ordinance that establishes a Hearing Examiner procedure. A draft ordinance and an implementation plan are to be submitted to the Board by August 1, 2007. A summary of the Department's approach is attached.

The Regional Planning Commission held two discussions (April 25th and May 30th) on the proposed Hearing Examiner procedure. Attached are the two reports to the Commission on this subject. The purpose of the discussions was twofold, one, to inform the Commission about the proposed procedure, and two, to get the Commission's input for integration into the Board report.

We will be meeting with you on Monday, June 18th, 2007 to discuss the proposed Hearing Examiner procedures. We are providing you with copies of the Commission reports and a project summary, which we will be discussing on the 18th.

If you have questions prior to the meeting, please contact me or Mi Kim at 213-974-6432.

RDH:KMS:MKK

attachments

cc: Bruce McClendon, Jon Sanabria, Rose Hamilton, Lorraine Gonzales, Elaine Lemke

Hearing Examiner Procedure Summary

On April 3, 2007, the Board of Supervisors approved a motion instructing the Director of Planning and County Counsel to report back to the Board within 120 days with the following:

1. Prepare an ordinance that “establishes a hearing examiner procedure wherein a staff-level hearing examiner conducts the initial public hearing on major land use decisions in the community where a proposed project is located...”
2. Prepare an implementation program that demonstrates:
 - How hearing examiners will be designated
 - How cases will be selected for processing by the Hearing Examiner
 - Mechanisms to ensure that the existing case management responsibilities of the planning staff is enhanced and not interrupted
 - Intent to expedite the processing of land use applications

In accordance with this directive, the Department of Regional Planning developed a Hearing Examiner procedure and an implementation plan as follows:

1. The ordinance, outlined below, will establish the Hearing Examiner procedure:
 - Major projects and legislative matters, for which the Regional Planning Commission (Commission) is the review authority or decision maker, are subject to the Hearing Examiner procedure.
 - A threshold identifies what is a major project and thus subject to Commission review rather than the Hearing Officer.
 - On major projects and legislative matters, the Hearing Examiner conducts public hearings in the community. The purpose of the Hearing Examiner hearing is to receive public comment, which would be considered by the Commission at a later hearing. After the public hearing the Hearing Examiner writes a staff report and makes recommendations to the Commission. The Hearing Examiner is not a decision maker.
 - The Commission holds a public hearing, and makes a decision or a recommendation (for Legislative matters) based on the Hearing Examiner's report and recommendations, additional public testimony and other considerations.
 - The Director appoints Hearing Examiners.
2. The implementation program, outlined below, will ensure that the new procedure is successfully implemented:
 - The Hearing Examiner position will be filled at the Principal Regional Planning Assistant level by internal promotions and if necessary by an open exam. A cross-training program will ensure that there is a career path to a Hearing Examiner position.
 - Case selection will be determined by the threshold that will be part of the ordinance on the Hearing Examiner procedure.

- Transition to the new procedure will be phased in and subject to periodic monitoring and evaluation.
- To expedite case processing, smaller projects that were previously heard by the Commission will be reassigned to the Hearing Officer. Also, the case intake system will be revised to provide for expanded pre-application counseling and case-intake.

The Hearing Examiner procedure would require an amendment to the Zoning Ordinance, which the Department will prepare jointly with County Counsel and resources to implement the procedure. It is envisioned that this procedure would require at minimum four Hearing Examiners (including one Section Head); three full-time Hearing Officers; and logistical support, including one support staff, local hearing sites, and equipment.

MKK
06-13-07



Los Angeles County
Department of Regional Planning

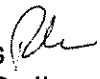
Planning for the Challenges Ahead



Bruce W. McClendon FAICP
Director of Planning

April 19, 2007

TO: Esther L. Valadez, Chair
Leslie G. Bellamy, Commissioner
Harold V. Helsley, Commissioner
Wayne Rew, Commissioner
Pat Modugno, Commissioner

FROM: *for* Karen Simmons 
Section Head, Ordinance Studies

**SUBJECT: HEARING EXAMINER PUBLIC HEARING PROCEDURE
April 25, 2007 Discussion**

Attached is the staff report for the Hearing Examiner procedure. This report is in response to the Board motion of April 3, 2007, which instructed this Department and County Counsel to prepare an ordinance and report back to the Board within 120 days.

The purpose of this discussion is to receive your comments and input as we proceed with the Board's request and to answer any questions you may have regarding the proposed Hearing Examiner procedure.

If you have questions prior to the meeting, please contact me or Mi Kim at 213-974-6432.

KS: MK

attachments

Staff Report
Proposed Hearing Examiner Procedures
April 19, 2007

BACKGROUND

On April 3, 2007 the Board of Supervisors approved a motion (attached) instructing the Director of Regional Planning and County Counsel to prepare an ordinance that establishes a Hearing Examiner procedure that increases opportunities for public participation, enables efficient public hearings, and improves feedback to project applicants. The Hearing Examiner would hold an initial public hearing on projects with regional impacts as well as legislative matters prior to the Regional Planning Commission (Commission) public hearing.

This procedure would not only enable an experienced and knowledgeable planner to hold public hearings in the community where the project is proposed, but would also result in a much more thorough Hearing Examiner staff report with detailed recommendations being presented to the Commission. The Commission would hold a subsequent public hearing, which would be much more focused and efficient. By making the public hearings more accessible and convenient, such a process would encourage and increase opportunities for public participation and expedite the processing of land use applications, while retaining the decision making authority of the Commission.

CURRENT COUNTY PROCEDURES

The Commission holds public hearings on all legislative actions (e.g. zone changes, plan amendments, zoning ordinance amendments, community standards districts) and certain quasi-judicial actions (e.g. conditional use permits and variances). On legislative actions, the Commission holds public hearings and makes a recommendation to the Board of Supervisors. On quasi-judicial actions, which are generally controversial or complex, the Commission holds public hearings and is the decision maker. The Commission actions may be appealed to the Board of Supervisors or it may be called for review by the Board.

The Hearing Officer hold public hearings for quasi-judicial actions which are typically less complex and less controversial, such as parcel maps, non-controversial conditional use permits and variances. At the close of a Hearing Officer's hearing, he/she closes the public hearing and makes a decision on the project (approve, deny, or take under submission). The Hearing Officer's decisions may be appealed to the Commission or it may be called for review by the Commission. (See the flowchart on page 7 for a diagram of the current process.)

CURRENT CITY OF LOS ANGELES PROCEDURE

Staff examined the entitlement process at the City of Los Angeles, which has a public hearing procedure similar to the Hearing Examiner position being proposed by the County. The City calls the position a Hearing Officer.

The City Planning Commission holds public hearings on all legislative actions and certain quasi-judicial actions with city-wide impacts. On legislative actions, the City Planning Commission holds public hearings and makes a recommendation and report to the City Council. On certain quasi-judicial actions, the City Planning Commission holds public hearings and is the decision maker.

The legislative actions and quasi-judicial actions that are decided by the City Planning Commission are managed by the Hearing Officer. Before the matter is considered by the City Planning Commission, the Hearing Officer holds an initial public hearing to receive public testimony and subsequently writes a staff report with recommendations. After the initial public hearing, the City Planning Commission holds a public hearing and considers the Hearing Officer's staff report as well as any additional public comments.

At the City, the Zoning Administrator, who is comparable to the Hearing Officer at the County, is the review authority for local community conditional use permits, such as automobile service stations, second units, and others as specified by the City's Zoning Code. The Zoning Administrator holds a public hearing and makes decisions. The actions of the Zoning Administrator are appealed to the City's planning commissions.

The level of review or who should be the review authority for quasi-judicial actions is established by a threshold codified in the City's Zoning Ordinance. The City relies on a combination of use types, square footage and the number of dwelling units to delineate the level of review. For example, the City's code specifies that major development projects with city-wide impacts (e.g. land reclamation projects, airports, auditoriums...etc) and certain projects that would create or result in more than 50,000 gross square feet of nonresidential floor or more than 50 dwelling units are the purview of the City Planning Commission.

The Hearing Officer procedure at the City can be broadly outlined as follows:

- i. The Hearing Officer conducts an initial public hearing on major cases and legislative matters to receive public testimony on the proposed project and the environmental documents.
- ii. The Hearing Officer subsequently writes a staff report and makes a recommendation to the City Planning Commission.
- iii. The City Planning Commission holds a public hearing and takes into consideration the Hearing Officer's staff report and recommendation, environmental documents, and additional public testimony.

(See the flow chart on page 7 for a diagram of the proposed process)

RECOMMENDATIONS

In accordance with Board instructions, staff is proposing a Hearing Examiner procedure for the County. The proposed process would make it more convenient for the public to comment on projects that affect their neighborhood but retains the authority of the Commission to make decisions on major land use projects of regional impact and legislative matters. The Commission would continue to be the appellate body for Hearing Officer decisions and/or could call those decisions up for review. The following changes are proposed by staff:

1. Establish a Threshold for Review Authority

The County should establish a threshold that delineates the level of review that is not based on controversy, but based on a combination of use types, square footage and the number of residential units. The threshold should be codified along with the Hearing Examiner procedure. A suggested threshold approach is found on page 6.

The Commission should be the review authority on projects which are regional in scope or have county-wide impacts, and the Hearing Officer should be the review authority for projects with a local or neighborhood impacts. Establishing a threshold would also provide the public and applicants with reasonable certainty as to whether the Hearing Officer or the Hearing Examiner and the Commission would be holding the public hearing.

While the Hearing Examiner process is being phased in, the Planning Director would determine which cases go to the Hearing Examiner and Commission, and which would go to the Hearing Officer based on an established threshold and current staffing.

2. Adopt a Hearing Examiner Procedure for Public Hearings

Staff proposes a Hearing Examiner's procedure that is similar to the process at the City.

- i. On all legislative actions and on projects for which the Commission would be the decision-maker, the Hearing Examiner would hold an initial public hearing in the community and take in public testimony on the proposed project and the environmental documents.
- ii. After the initial public hearing, the Hearing Examiner would provide the Commission with a staff report and recommendation.
- iii. The Commission would subsequently hold a public hearing to consider the proposed project and the environmental documents before rendering a decision.

This process would enable the Commission to make a decision based not only on additional public testimony, but prior examination of the project and public input. Utilizing Hearing Examiners to conduct initial public hearings has the potential to add to case processing time, but it also has the potential to eliminate some of the continued and consent hearings at the Commission and, thus, shorten the overall approval time. As a result, the public hearings at the Commission may be more streamlined and efficient.

This process also ensures that the Commission retains its review authority and also ensures that the Commission's public hearing is not the first opportunity the residents have to provide feedback on various projects.

3. Hold Local Public Hearings

Currently, Commission public hearings are held out in the community by request or as needed, but with the Hearing Examiner process, the County could hold local public hearings regularly. The Commission would continue to hold public hearings in the main hearing room in Downtown Los Angeles.

Having the Hearing Examiner receive public testimony at a local venue, closer to the proposed project site, would ensure that it is convenient for the public to provide comment. This process would promote public participation and increase opportunities for public input.

4. Case Processing and Staff Enhancement

The addition of the Hearing Examiner process should streamline and expedite the case processing system. However, to ensure streamlined case processing, staff is recommending several other modifications to the existing procedures.

Staff is recommending that the Department expand pre-application services. The Department currently provides this service to some applicants in order to promote projects that are compatible with current regulations and to encourage more complete and well designed projects before the application is filed. Pre-application conference services should be available to all applicants by request. This service together with the initial public hearing would help to resolve issues and problems before the Commission public hearing and, thus, has the potential to streamline and shorten the public hearing process. Additional staffing would be needed to implement this service.

With the proposed threshold and the use of a Hearing Examiner, it is likely that a greater number of projects will be assigned to the Hearing Officers. Hearing Officers are currently at the level of Section Heads or Assistant Administrators; the number of staff members serving as Hearing Officers may need to be increased. The assignment of Hearing Examiners and the provision of additional staff resources would ensure that the current case management responsibilities of the Department are maintained in an efficient manner.

In addition, the Director of Planning should be given the authority to appoint Hearing Officers and Hearing Examiners. Currently the Director appoints the Hearing Officers, and the appointment is approved by the Board. As these new procedures are implemented, the ability of the Director to appoint these positions will help expedite these recommendations.

CONCLUSION

The Commission and the Department strive to provide the best service possible to its constituents. However, as population and housing in the unincorporated grows from year to year and as the corresponding demand for planning services increases from year to year, we should consider strategies that would promote public participation and increase our responsiveness.

The County can facilitate local public hearings by implementing an initial public hearing process on regional projects and legislative matters for which the Commission would be the decision-maker. These hearings would be conducted in the communities by a Hearing Examiner. This would allow the Commission to hold "decision" public hearings. In order to implement the Hearing Examiner initial public hearing process, the County should also establish thresholds that will identify the review authority from the beginning.

Finally, the County should promote and/or hire the necessary staff—Hearing Examiners, Hearing Officers, planners, and support staff—to implement the proposed processes and to ensure timely review of applications. Together, these measures will increase the capacity of the Department to continue to respond to the increase in demand for services, efficiently and effectively.

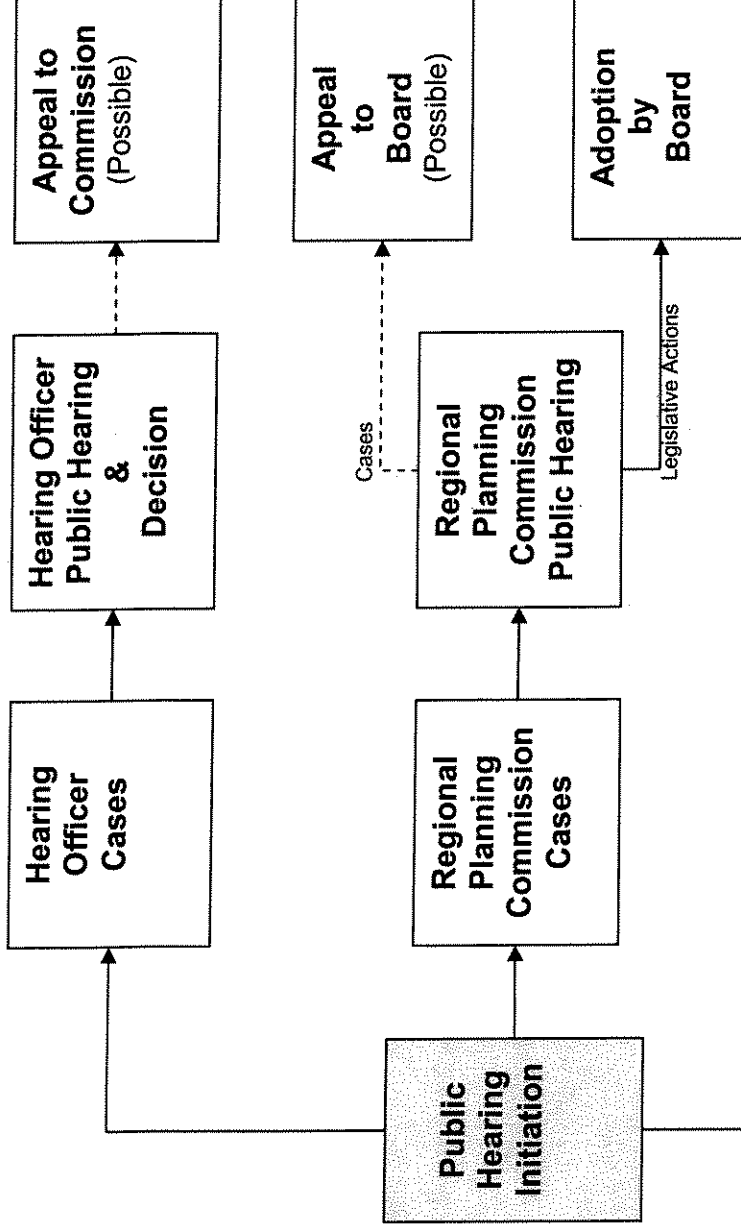
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Proposed Threshold and Review Authority

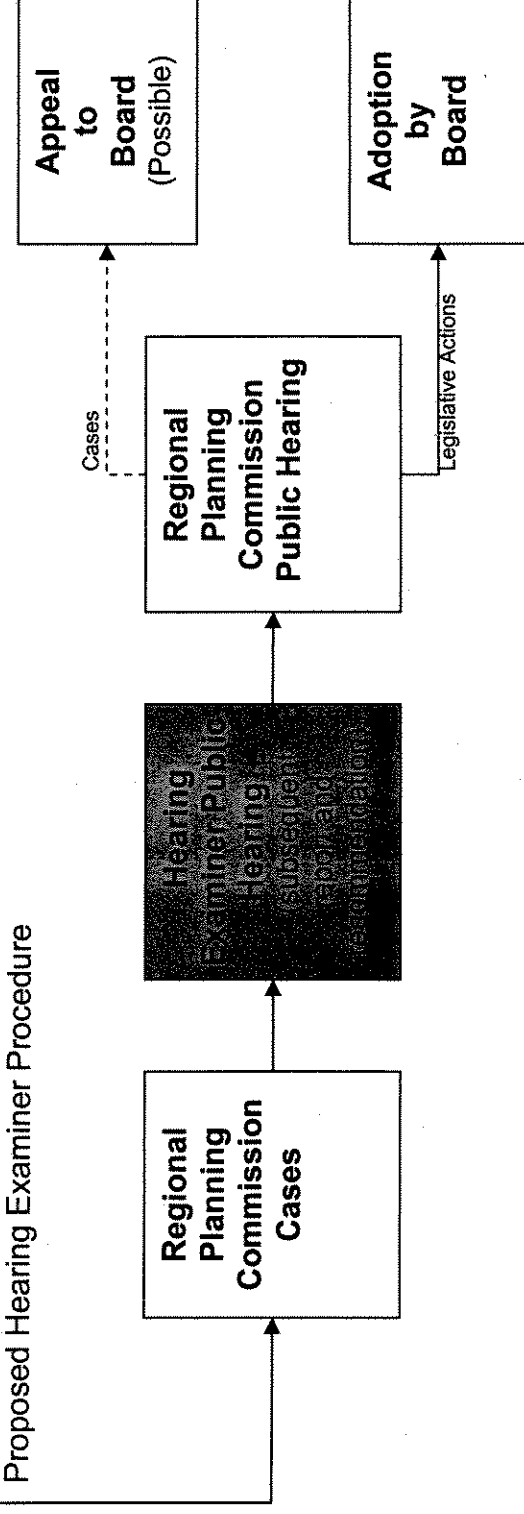
PROJECT CATEGORIES	HEARING OFFICERS	REGIONAL PLANNING COMMISSION	BOARD OF SUPERVISORS
LOCAL IMPACT Conditional Use Permits if... <i>The project creates or results in less than 50,000 gross square feet of nonresidential floor area;</i> OR <i>The project creates or results in less than 50 dwelling units.</i> Nonconforming review Oak tree permit Parking permit Variance CSD modifications Minor CUP Parking Deviation Coastal Development Permits- (Catalina)	DECISION	APPEAL	—
REGIONAL IMPACT Conditional use permits if... <i>Airport</i> <i>Highway realignment</i> <i>Landfill</i> <i>Residential/transitional care</i> OR <i>The project creates or results in more than 50,000 gross square feet of nonresidential floor area;</i> OR <i>The project creates or results in more than 50 dwelling units.</i> Aviation permit Cemetery permit Coastal development permit (Marina) Explosive permit Medical marijuana Revocations Surface mining permit Tentative tract map w/o legislative	—	DECISION A. Initial Hearing By Hearing Examiner B. Decision Hearing By Commission	APPEAL
LEGISLATIVE ACTIONS Ordinance amendment Zone change Plan amendment Specific plan Tentative tract map w/ legislative	—	RECOMMENDATION A. Initial Hearing By Hearing Examiner B. Decision Hearing By Commission	ADOPTION

Current vs. the Proposed Public Hearing Procedure

Existing Public Hearing Procedure



Proposed Hearing Examiner Procedure





MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

Sachi A. Hamai, Executive Officer-
Clerk of the Board of Supervisors
383 Kenneth Hahn Hall of Administration
Los Angeles, California 90012

At its meeting held April 3, 2007, the Board took the following action:

2

The following item was called up for consideration:

Supervisors Yaroslavsky and Knabe's recommendation to instruct the Director of Planning and County Counsel to prepare an ordinance for placement on the Board's agenda for consideration in 60 days that establishes a hearing examiner procedure wherein a staff-level hearing examiner conducts the initial public hearing on major land use decisions in the community where a proposed project is located and then makes appropriate recommendations to the Regional Planning Commission for their formal action; and instruct the Director of Planning to prepare an implementation program that demonstrates how the initial hearing examiners will be designated, how cases will be selected until this process can be fully implemented, and contains mechanisms to ensure that this process will enhance, and not interrupt, the existing case management responsibilities of Planning Staff.

The following statement was entered into the record for Supervisors Yaroslavsky and Knabe:

"The Department of Regional Planning is responsible for day-to-day land-use regulations and long-range planning for the County's 2,643 square miles of unincorporated territory and the one million people who live there. These unincorporated communities are geographically diverse and many are located far away from downtown Los Angeles. As a result, it is often difficult for people to attend Regional Planning Commission (Commission) hearings to voice their thoughts and concerns on land use decisions that will affect their neighborhood. Further, as a result of the limited number of opportunities for public input provided by the current process, the Commission often holds multiple meetings on one case in order to accommodate everyone who wants to testify. This can force community members to choose between enduring multiple trips downtown and many missed days of work or not being able to fully participate in the planning process. Further, this system creates enormous delays in the planning process for applicants and concerned citizens alike and increases the case burden on planning staff.

(Continued on Page 2)

2 (Continued)

"However, there is a better alternative that has been used in numerous other jurisdictions, including the City of Los Angeles. That is, public hearings on major land use decisions, including conditional use permits, tract maps, and zone changes, should first be held by an experienced and knowledgeable staff-level hearing examiner in the community where the proposed project is located. That hearing examiner should take testimony from all interested parties, make an appropriate recommendation as to findings, whether the project should be approved, approved with modifications, or denied, and submit those recommendations to the Regional Planning Commission for formal action and further opportunity for interested parties to testify. Such a process will increase opportunities for public participation earlier in the planning process, enable the Regional Planning Commission to make planning decisions in a more timely and efficient manner, and give project applicants clearer feedback as to how projects can be improved.

"In so doing, the Regional Planning Commission will also be able to devote more of its time to addressing regional policy issues and fully deliberating the cases that come before it."

Therefore, Supervisor Yaroslavsky made a revised motion, seconded by Supervisor Knabe, that the Board take the following actions:

1. Instruct the Director of Planning and County Counsel to prepare an ordinance for placement on the Board's agenda for consideration in 120 days that establishes a hearing examiner procedure wherein a staff-level hearing examiner conducts the initial public hearing on major land use decisions in the community where a proposed project is located and then makes appropriate recommendations to the Regional Planning Commission for their formal action; and
2. Instruct the Director of Planning to prepare an implementation program that demonstrates how the initial hearing examiners will be designated, how cases will be selected until this process can be fully implemented, and contains mechanisms to ensure that this process will enhance, and not interrupt, the existing case management responsibilities of Planning Staff.

Supervisor Antonovich made a suggestion that Supervisor Yaroslavsky's Recommendation No. 2 be amended to add that the implementation program will address the intent to expedite the processing of land use applications by the Department of Regional Planning. Supervisor Yaroslavsky accepted Supervisor Antonovich's amendment.

(Continued on Page 3)

2 (Continued)

After discussion, Supervisor Yaroslavsky's motion, as amended, seconded by Supervisor Knabe, was unanimously carried.

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Copies distributed:

- Each Supervisor
- Chief Administrative Officer
- County Counsel
- Director of Planning
- Chairperson, Regional Planning Commission



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



Bruce W. McClendon FAICP
Director of Planning

May 24, 2007

TO: Esther L. Valadez, Chair
Pat Modugno, Vice Chair
Leslie G. Bellamy, Commissioner
Harold V. Helsley, Commissioner
Wayne Rew, Commissioner

FROM:  Karen Simmons
Section Head, Ordinance Studies

**SUBJECT: HEARING EXAMINER PROCEDURE
CONTINUED RPC DISCUSSION
MAY 30, 2007—Item No. 9**

On April 25, 2007, your Commission held a discussion on the proposed Hearing Examiner procedure requested by the Board of Supervisors. The Board motion requested that a Hearing Examiner procedure be established to "increase opportunities for public participation, enable the Regional Planning Commission to make planning decisions in a more timely and efficient manner, and give project applicants clearer feedback as to how the projects can be improved." At the discussion, your Commission raised many issues, questions, and concerns on the Hearing Examiner procedure and how the procedure would be implemented. This report is in response to the issues raised at the discussion.

Issues and concerns raised by the Commission

1. What is the current process for allocating cases?

Currently, staff (a Supervising Regional Planner in the Zoning Permits Section) schedules a case for a public hearing either before the Hearing Officer or the Regional Planning Commission. In determining who should conduct the hearing, staff is broadly guided by the "Hearing Officer Procedural Manual" (Manual). The Manual was written pursuant to the ordinance that established the Hearing Officer procedure in 1985. Before that, the Zoning Board conducted land use related public hearings and made a recommendation to the Commission.

The Manual specifies that all legislative matters be scheduled for a public hearing before the Regional Planning Commission. It also specifies that, "pursuant to the

Report to Regional Planning Commission
Hearing Examiner Procedure

County Code, the Hearing Officer may hear and decide on the following types of cases unless the Commission calls them for review:"

- Animal permits
- Cemetery permits
- Conditional use permits
- Explosive storage permits
- Low and moderate income housing permits
- Modifications and revocations
- Mobilehome permits
- Nonconforming use and structure reviews
- Oak tree permits
- Surface mining permits
- Variances
- Tentative parcel maps
- Tentative tract maps

Also in 1985, the Commission issued a "RPC Policy Statement Hearing Officer Procedures"¹ to help determine what should be considered by staff in assigning a case for a Commission hearing. The statement reads in part, "In making this assignment, staff may utilize the following criteria:"

- General Plan Amendment
- Zone Change
- Revocation Case
- Cemetery Case
- Landfill Site Request
- Requirement for full EIR
- Major Policy Implications and/or Countywide Implications
- Significantly large project
- Request that represents a concentrated problem in an area
- "Insist" filing and/or request involving variation from known RPC position
- Known substantial controversy
- Resubmittal of a case previously heard by the RPC

These guidelines have been used by staff to determine whether the Hearing Officer or the Regional Planning Commission would conduct the hearing when a case is ready to be scheduled for a public hearing.

2. How would cases be distributed to the Hearing Examiner?

All cases that would be considered by the Commission would be subject to the Hearing Examiner procedure. The Hearing Examiner procedure would require the identification of the review authority at the start of the land use entitlement process as these cases would be handled by the Hearing Examiner through case processing and initial public hearing until the case is brought before the Commission.

¹ The policy statement was established by the Commission and confirmed by the Board in 1985.

Report to Regional Planning Commission
Hearing Examiner Procedure

Staff recommends establishing a threshold in the zoning code to determine which cases would be subject to the Hearing Examiner procedure. The proposed threshold is based in part on the existing guidelines and provides further clarification of who would be the review authority. For example, current guidelines provide that "Major Policy Implications and/or Countywide Implications," "Significantly large project," and "Known substantial controversy" may be used to determine what should be reviewed by the Commission. These terms have led to the use of "controversy" as a litmus test for determining what the Commission should hear. Instead of using controversy, staff proposes that the scale, size and intensity of land use dictate who the review authority will be. The proposed threshold would use a combination of permit types and numerical delineation to determine which cases would trigger a Commission review and hence be subject to the Hearing Examiner procedure. Please see the attached proposed threshold (Attachment 1).

3. Provide a matrix comparing the current vs. the proposed distribution of cases.

Below is a summary of the distribution of case actions by District for fiscal year 2005-2006, the most recent and complete data recorded the Departments case tracking system. A detailed distribution of the case actions by permit type and District is attached to this report (Attachment 2). The figures in this table represent the actions that the Hearing Officer or the Commission took on a case, for example, continuances and concurrent permits, and therefore represents the workload of the Hearing Officer and the Commission.

The table shows a comparison of what was actually heard by the Hearing Officer and the Commission in fiscal year 2005-2006 (Actual) and what would be assigned to the Hearing Officer or the Commission if the proposed thresholds would apply to fiscal year 2005-2006 (Proposed).

**Summary of Case Distribution: Actual vs. Proposed
Fiscal Year 2005-2006**

HEARING OFFICER							
	1 st District	2 nd District	3 rd District	4 th District	5 th District	Countywide/ Unspecified	Total
<i>Legislative Actions</i>							
Actual	0	0	0	0	0	0	0
Proposed	0	0	0	0	0	0	0
<i>Quasi-judicial Actions</i>							
Actual	26	20	27	20	80	41	214
							(340)*
Proposed	32	29	37	37	93	39	267
% Change	+23%	+45%	+37%	+85%	+16%	-5%	+25%

* In fiscal year 2005-2006, the Hearing Officer actually had a total of 340 actions. 126 of them were denials due to inactivity. These were not counted towards the total Hearing Officer actions for the purposes of workload comparison as they were actions taken en masse.

Report to Regional Planning Commission
Hearing Examiner Procedure

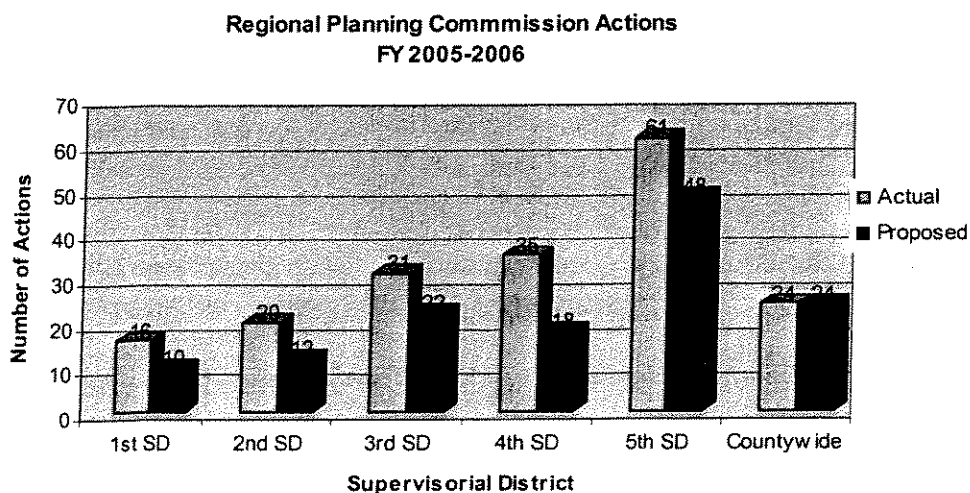
REGIONAL PLANNING COMMISSION

	1 st District	2 nd District	3 rd District	4 th District	5 th District	Countywide/ Unspecified	Total
Legislative Actions							
Actual	1	5	5	0	6	18	35
Proposed	1	5	5	0	6	18	35
Quasi-judicial Actions							
Actual	15	15	26	35	55	6	152
Proposed	9	7	17	18	42	6	99
Total							
Actual	16	20	31	35	61	24	187
Proposed	10	12	22	18	48	24	134
% Change	-38%	-40%	-29%	-49%	-21%	0%	-28%

As shown in the table above, the Commission actually took a total of 187 actions in FY 2005-2006. Of the total Commission actions, 20% were legislative actions—for example, General Plan progress report, zone changes, plan amendments, and ordinances—and 80% were quasi-judicial actions requiring decisions on land use entitlement requests. Under the threshold, the number of legislative actions assigned to the Commission would not change as all legislative actions must be heard by the Commission.

Overall, under the threshold, the Commission would see a 28% decrease in the workload, and all districts would see a reduction in the number of case actions. Case actions in Fifth District would be reduced by 21%; Fourth District, by 49%; Third District, by 29%; Second District, by 40%; First District, by 38%.

Table 1. Case Distribution



Report to Regional Planning Commission Hearing Examiner Procedure

In terms of the types of cases that would be reassigned to the Hearing Officer, under the threshold, the Commission would see a reduction of 32 conditional use permit actions. Examples of case actions that would be reassigned to the Hearing Officer are alcoholic beverage sales (11), use continuations (9), and conditional use permit modifications (6). In addition to the conditional use permits, the Commission would also see a reduction in the number of Oak Tree Permits and Parking Permits. Please refer to the attached detailed matrix for the breakdown of case distribution by permits and Districts (Attachment 2).

As the table above and the attached detailed matrix shows, the Commission would continue to hear large projects, but smaller projects would be shifted to the Hearing Officer. As cases are shifted to the Hearing Officer, there would be a corresponding increase in the number of Hearing Officer case actions. Shifting the level of review for certain permits and types of cases to the Hearing Officer as proposed by the threshold should streamline case processing and allow the Commission to focus on larger projects (e.g. Universal, Centennial, and Newhall Ranch) and legislative actions. This is also consistent with the recommendations of the consultants for the Zoning Ordinance Update Program (ZOUNP).

4. How would the new procedure affect the Commission's oversight on cases decided by the Hearing Officer?

The Commission retains the authority to call a case up for review following an action by the Hearing Officer; this requires the approval of the majority of the Commissioners present when a call for review is considered. In addition, the Commission may hear a case on appeal. With the new procedure, the Commission may hear more cases on appeal because smaller projects assigned to the Hearing Officer under the threshold may prove to be "controversial." In which case, the Hearing Officer's decision may be more likely to be appealed by any persons dissatisfied by the decision.

5. What would be the role of the Town Councils?

The role of Town Councils will not change with the Hearing Examiner procedure. The Town Councils may participate in the land use decision-making process as they do now by providing comment.

However, the Hearing Examiner procedure would provide the Town Councils with an added opportunity to provide comment. The Hearing Examiner public hearings will be held in the community and will be more accessible, making it easier for members of the Town Councils to attend public hearings and provide comments in person.

6. What is the difference between community meetings and Hearing Examiner public hearings?

Community meetings and workshops encourage dialogue and feedback on broad issues, such as the Local Coastal Program or a Community Standards District. These informal meetings help planners gather information, respond to community concerns,

Report to Regional Planning Commission Hearing Examiner Procedure

and answer questions. Community feedback and input at such meetings help planners formulate policy.

Unlike community meetings, the Hearing Examiner public hearings will be part of the formal hearing process, the purpose of which will be to receive public testimony, identify significant issues, and provide information to the public. After the initial public hearing, the Hearing Examiner will write a report and make a recommendation to the Commission summarizing and addressing the issues raised, which will be considered by the Commission in reaching a decision.

7. Who would be present at the Hearing Examiner public hearing?

The public hearing would be attended by members of the public and conducted by a Hearing Examiner. Representatives from other departments (Public Works, Fire, County Counsel...etc) may be requested to attend the hearing to answer specific questions or concerns posed by the public.

8. What kind of staffing and resources would the new procedure require?

Based on an analysis of the cases that would be assigned to the Hearing Examiner for a Commission decision, staff anticipates that a minimum of four Hearing Examiners (one of whom would be a Section Head) plus one support staff would be needed to successfully implement the Hearing Examiner procedure. The Hearing Examiners would be at the Principal Regional Planning Assistant level; these are planners familiar with departmental practices and experienced in case processing who would be selected from within the Department, thus providing additional opportunities for advancement. The Hearing Examiner would perform the following duties:

- Case intake
- Prepare for the initial public hearing
- Conduct and facilitate the initial public hearing
- Analyze the merits of a case and prepare staff report with findings and draft conditions, and a recommendation
- Present the case at the Commission's public hearing
- Process final case documents

Staff also anticipates that the proposed threshold would increase the number of cases heard and decided by the Hearing Officer. This would require either additional or full-time Hearing Officers. Currently, Hearing Officer duties are collateral duties that a Supervising Regional Planner or an Assistant Administrator performs. In order to manage the potential increase in Hearing Officer case load, staff believes that two or three full-time Hearing Officers may be needed.

9. Would the Commission hearings be duplicative or a mere formality?

The purpose of the initial public hearing by the Hearing Examiner is to gather testimony, which would then be conveyed to the Commission in the Hearing Examiner report and recommendation. The Commission hearing should be no more duplicative than a continued hearing would be duplicative. Just as a hearing may be currently continued to allow applicants to address unresolved issues, the Hearing Examiner public hearing allows the applicants to address problems before the project comes to the Commission for a decision. The same people who testified at the Hearing Examiner public hearing may also testify at the Commission hearing; however, they may not testify at the Commission hearing if they feel that their viewpoints and concerns were adequately addressed by the Hearing Examiner.

10. Will the Hearing Examiner procedure lengthen case processing time because it is an additional public hearing?

In some instances the new procedure may lengthen case processing time; however, the goal is to shorten it. Currently, 49% of the Commission hearings are continuances. This means that many cases are already subject to multiple public hearings. In instances where cases are subject to multiple hearings currently, the Hearing Examiner public hearing would not be an additional hearing. Instead, it would be similar to the current situation (i.e. multiple public hearings).

The Hearing Examiner public hearings can expedite case processing by facilitating efficient Commission hearings and reducing the number of continuances. By the time a case is heard by the Commission, it should have had an initial public hearing and the applicant should have had the opportunity to address the issues and problems raised at that hearing. If not, the Commission would have the benefit of the Hearing Examiner's analysis and recommendation and previous public testimony in reaching a decision.

11. Will some cases be directly assigned to the Commission for a decision?

All cases that require the Commission's review would be subject to the Hearing Examiner procedure unless the Commission calls up a case for review after the Hearing Officer's action.

12. How will the Department ensure a smooth transition to the new procedure and ensure that it will not interrupt current operations?

The Hearing Examiner procedure will be phased in. The hearing schedule will be managed to ensure that the Commission and Hearing Officers hear a full schedule of cases until the procedure is fully implemented. Cases already assigned to a planner will continue to be processed per current practices and the new procedure would apply to new cases filed as staffing levels are increased.

Also, in order to ensure a smooth transition, the following measures will be implemented:

- Promote or hire the required staff.
- Purchase equipment for off-site hearings.

Report to Regional Planning Commission
Hearing Examiner Procedure

- Restructure the case intake system.
- Form an implementation task force.

Conclusion

The Hearing Examiner procedure will provide the Commission with the opportunity to focus on large projects and legislative actions. The new procedure will establish a threshold which will shift about 28% of the Commission's case processing workload to the Hearing Officer. Thus, the Commission will have additional time to consider major projects such as the upcoming Universal Centennial, and Newhall Ranch. The Hearing Examiner procedure will reduce the current case processing workload of the Commission and it will help the Commission manage the anticipated workload for other major projects.

The following projects will also require the Commissions consideration in the near future:

- General Plan Update
- Zoning Ordinance Update Program (ZOUP)
- Green Buildings
- Affordable Housing
- Ordinance amendments (WECS, solar power, dark sky)
- Airport Land Use Compatibility Plans
- Community Standards Districts

In addition to the above, many community plans need to be updated and community plans are needed for certain areas. Currently, there are 14 area community plans, and 40 areas or "urban islands" do not have community plans. Of the existing community plans, many of them have not been updated since their adoption in 1980's.

Staff looks forward to your continued discussion on May 30, 2007, and we will be present at that time to answer any questions you may have. In the interim, if you have any questions about the proposed Hearing Examiner procedure, please contact me or Mi Kim at (213) 974-6432.

KS:MK

Attachments

Proposed Threshold for Review Authority
Actual vs. Proposed Case Distribution by District
List of Possible Public Hearing Facilities

Proposed Threshold for Review Authority

PROJECT CATEGORIES	HEARING OFFICERS	REGIONAL PLANNING COMMISSION	BOARD OF SUPERVISORS
TYPE I Conditional Use Permits if... <i>The project creates or results in up to (and including) 50,000 gross square feet of nonresidential floor area;</i> OR <i>The project creates or results up to (and including) less than 50 dwelling units.</i> Housing Permit (on menu) Nonconforming review Oak Tree Permit (removal of up to and including 10 oak trees) Parking Permit Variance CSD modifications Minor CUP Parking Deviation Subdivisions w/o legislative actions	DECISION	APPEAL	—
TYPE II Conditional use permits if... <i>Landfill.</i> <i>Residential/transitional care</i> OR <i>The project creates or results in more than 50,000 gross square feet of nonresidential floor area;</i> OR <i>The project creates or results in more than 50 dwelling units.</i> Aviation permit (ALUC) Cemetery permit Explosive permit Housing Permit (off menu) Local Coastal Permit Medical Marijuana Permit Oak Tree Permit (removal of a heritage oak tree or 11 or more oak trees) Revocations Surface Mining Permit Subdivisions w/o legislative actions (if concurrent Hillside CUP or SEA CUP or EIR)	—	DECISION A. Initial Hearing By Hearing Examiner B. Decision Hearing By Commission	APPEAL
LEGISLATIVE ACTIONS Ordinance amendment Zone change Plan amendment Specific plan Subdivisions w/ legislative actions	—	RECOMMENDATION A. Initial Hearing By Hearing Examiner B. Decision Hearing By Commission	ADOPTION

ACTUAL VS. PROPOSED CASE DISTRIBUTION

Hearing Officer Actions FY 05-06

Legislative Actions Ex. RADV		SD1	SD2	SD3	SD4	SD5	Unspec.	TOTAL
RAV	Actual	0	0	0	0	0	0	0
RPA	Proposed	0	0	0	0	0	0	0
RZC	Actual	0	0	0	0	0	0	0
RZC	Proposed	0	0	0	0	0	0	0
Quasi-Judicial Actions								
RCDP								
RCOC	Actual	0	0	0	0	1	0	1
RCOC	Proposed	0	0	0	0	1	0	1
RCSD	Actual	1	1	0	0	0	0	2
RCSD	Proposed	1	1	0	0	0	0	2
RCUP	Actual	0	0	0	0	0	0	0
RCUP	Proposed	0	0	0	0	0	0	0
RDA	Actual	13	17	18	18	12	43	119
RDA	Proposed	15	23	18	18	25	52	151
RENV	Actual	0	0	0	0	0	0	0
RENV	Proposed	0	0	0	0	0	0	0
RHWY	Actual	0	0	0	0	0	0	0
RHWY	Proposed	0	0	0	0	0	0	0
RMIS	Actual	0	0	0	0	0	0	0
RMIS	Proposed	0	0	0	0	0	0	0
RNCR	Actual	4	4	2	0	0	1	11
RNCR	Proposed	4	4	4	0	0	1	17
ROAK	Actual	0	0	0	0	0	0	0
ROAK	Proposed	0	0	0	0	0	0	0
RPKD	Actual	0	0	0	0	0	0	0
RPKD	Proposed	0	0	0	0	0	0	0
RPKP	Actual	0	1	1	2	1	0	5
RPKP	Proposed	0	1	1	2	1	0	5
RPP	Actual	0	0	0	0	0	0	0
RPP	Proposed	0	0	0	0	0	0	0
RRTM	Actual	0	0	0	0	0	0	0
RRTM	Proposed	0	0	0	0	0	0	0
RTM	Actual	8	9	0	0	4	17	45
RTM	Proposed	9	9	0	1	4	16	44
RVAR	Actual	0	0	0	0	0	0	0
RVAR	Proposed	0	0	0	0	0	0	0
RZCR	Actual	0	0	0	0	0	0	0
RZCR	Proposed	0	0	0	0	0	0	0
Total	Actual	26	20	27	20	80	41	214
HO	Proposed	32	29	37	37	93	39	267

25% Increase

Regional Planning Commission Actions FY05-06

Legislative Actions Ex. RADV		SD1	SD2	SD3	SD4	SD5	Unspec.	TOTAL
RAV	Actual	1	5	5	5	0	6	18
RPA	Proposed	1	5	5	5	0	6	18
RZC	Actual	1	5	5	5	0	6	18
RZC	Proposed	1	5	5	5	0	6	18
Quasi-Judicial Actions								
RCDP								
RCOC	Actual	0	0	0	0	6	0	6
RCOC	Proposed	0	0	0	0	6	0	6
RCSD	Actual	0	0	0	0	0	0	0
RCSD	Proposed	0	0	0	0	0	0	0
RCUP	Actual	10	12	12	12	17	32	84
RCUP	Proposed	8	6	6	10	4	23	52
RDA	Actual	0	0	0	0	0	0	0
RDA	Proposed	0	0	0	0	0	0	0
RENV	Actual	1	0	0	1	3	1	6
RENV	Proposed	0	0	0	1	3	1	5
RHWY	Actual	0	0	0	0	0	0	0
RHWY	Proposed	0	0	0	0	0	0	0
RMIS	Actual	0	0	0	0	0	0	0
RMIS	Proposed	0	0	0	0	0	0	0
RNCR	Actual	0	2	0	0	0	0	2
RNCR	Proposed	0	0	0	0	0	0	0
ROAK	Actual	0	0	0	10	0	4	14
ROAK	Proposed	0	0	0	4	1	1	6
RPKD	Actual	0	0	0	0	1	0	1
RPKD	Proposed	0	0	0	0	0	0	0
RPKP	Actual	2	0	0	0	4	1	7
RPKP	Proposed	1	0	0	0	4	1	6
RPP	Actual	0	1	1	1	0	2	4
RPP	Proposed	0	0	0	0	0	0	0
RRTM	Actual	0	0	0	0	0	0	0
RRTM	Proposed	0	0	0	0	0	0	0
RTM	Actual	1	0	0	2	0	8	12
RTM	Proposed	0	0	0	2	0	2	13
RVAR	Actual	1	0	0	0	4	0	5
RVAR	Proposed	0	0	0	0	0	0	0
RZCR	Actual	0	0	0	0	0	0	0
RZCR	Proposed	0	0	0	0	0	0	0
Total	Actual	16	20	20	31	36	61	187
RPC	Proposed	10	11	11	22	18	48	134

25% Decrease

**ACTUAL VS. PROPOSED CASE DISTRIBUTION
KEY TO THE ACTIONS**

PERMIT TYPE	DESCRIPTION
RADV	Advance Planning Project
RAV	Aviation
RCDP	Coastal Development Permit
RCOC	Certificate Of Compliance
RCSD	Community Standards District Modifications
RCUP	Conditional Use Permit
RDA	Development Agreement
RENV	Environmental Assessment
RHWY	Highway Realignment
RMIS	Miscellaneous Permit
RNCR	Non-Conforming Review
ROAK	Oak Tree Permit
RPA	Plan Amendment
RPKP	Parking Permit
RPP	Plot Plan
RRTM	Revised Tentative Map
RTM	Tentative Map
RVAR	Variance
RZC	Zone Change
RZCR	Zoning Conformance Review